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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2019) 304 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION of the Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oil and kerosene

Delegations will find attached document SWD(2019) 304 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION
of the

Council Directive

95/60/EC of 27 November 1995 on fiscal marking of gas oil and kerosene

{SWD(2019) 303 final}

Directive 95/60/EC ⁽¹⁾ ('the Euromarker Directive') obliges EU Member States to add a common harmonised fiscal marker to energy products most at risk of fiscal fraud (gas oil and kerosene) if these products are released for consumption exempt from excise duty or are taxed at a rate lower than the standard rate applicable to fuel used as propellant. This is to prevent the fraudulent use of these preferentially taxed fuels in motor vehicles.

While the Directive requires the EU-wide use of the common harmonised fiscal marker, Member States retain their flexibility to use national markers or colours (dyes) in parallel with the use of common marker.

The evaluation confirms that the Euromarker Directive has mostly achieved its original objectives as set out by the legislators and it has done so in an effective and efficient manner. The evaluation also confirms the continued relevance of the legislation in the light of the technological, economic and legal developments since its adoption, its coherence with other EU legislation and its continued EU added value. The administrative burden is found to be proportionate to the benefits achieved.

It is established that the main positive impact of the Euromarker Directive lies in providing a common level of protection against fuel fraud across the EU.

As for the dual marking of fuels, it cannot be excluded that the continued use of national markers and dyes has played a part in the limited cross-border trade in marked fuel. However, there is no evidence that the combined use of national dyes/markers with the Euromarker creates a disproportionate obstacle to the proper functioning of the internal market. The benefits of dual marking in terms of fraud prevention are considered to outweigh the negative impact on cross-border trade.

The evaluation has identified some shortcomings with the robustness of the chemical substance currently used as Euromarker. A new and better performing fiscal marker that is more robust and resilient to removal from the marked fuels could help boost the role of the Directive as an anti-fraud instrument.

¹ OJ L 291, 6.12.1995, p. 46 (<https://eur-lex.europa.eu/legal-content/DE/ALL/?uri=CELEX:31995L0060>)